

Russell S. Walker, Utah Bar No. 3363  
 Elizabeth R. Loveridge, Utah Bar No. 6025  
 Reid W. Lambert, Utah Bar No. 5744  
 WOODBURY & KESLER, P.C.  
 265 East 100 South, Suite 300  
 P.O. Box 3358  
 Salt Lake City, UT 84111  
 Telephone: (801) 364-1100  
 Facsimile: (801) 359-2320  
 Email: [rwalker@wklawpc.com](mailto:rwalker@wklawpc.com)

and

Joseph J. Huggins  
 Nevada Bar No. 4456  
 HUGGINS & ASSOCIATES  
 1000 N. Green Valley Parkway, Suite 440-2  
 Henderson Nevada 89014  
 Telephone: (702) 373-8664  
 Facsimile: (815) 572-5723  
 Email: [joe.huggins@sbcglobal.net](mailto:joe.huggins@sbcglobal.net)

WOODBURY & KESLER, P.C.  
 265 East 100 South, Suite 300  
 Salt Lake City, UT 84111  
 Tel: (801) 364-1100 Fax: (801) 359-2320

**UNITED STATES BANKRUPTCY COURT  
 DISTRICT OF NEVADA**

In re:	Case No.: BK-S-06-10725 LBR
USA COMMERCIAL MORTGAGE COMPANY,	Case No.: BK-S-06-10726 LBR
Debtor.	Case No.: BK-S-06-10727 LBR

In re:	Case No.: BK-S-06-10728 LBR
USA CAPITAL REALTY ADVISORS, LLC,	Case No.: BK-S-06-10729 LBR
Debtor.	Chapter 11

In re:	<b>Jointly Administered Under Case No. BK-S-06-10725 LBR</b>
USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC,	
Debtor.	

In re:	<b>OBJECTION OF JOSEPH MILANOWSKI AND THOMAS HANTGES TO THE APPLICATIONS FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES</b>
USA CAPITAL FIRST TRUST DEED FUND, LLC,	
Debtor.	

In re:	
USA SECURITIES, LLC,	
Debtor.	

Affects:	Hearing Date: September 28, 2006
All Debtors	Hearing Time: 9:30 a.m.
USA Commercial Mortgage Company	Place: Courtroom 1
USA Securities, LLC	Foley Federal Building
USA Capital Realty Advisors, LLC	300 Las Vegas Blvd. South
USA Capital Diversified Trust Deed Fund, LLC	
USA Capital First Trust Deed Fund, LLC	

Joseph Milanowski and Thomas Hantges hereby submit this Objection to the following:

1. First Interim Fee And Expense Application of Shea & Carlyon, Ltd., Special (Local) Counsel To The Official Committee of Equity Security Holders of USA Capital First Trust Deed Fund, LLC (Affects USA Capital First Trust Deed Fund, LLC);

2. First Interim Application of Stutman, Treister & Glatt P.C. As Counsel For The Official Committee of Equity Security Holders of USA Capital First Trust Deed Fund, LLC For Allowance And Payment of Fees And Expenses For The Period From May 10, 2006 Through July 31, 2006 (Affects USA Capital First Trust Deed Fund, LLC);

3. First Interim Application of Alvarez & Marsal, LLC As Financial And Real Estate Advisor For The Official Committee of Equity Security Holders of USA Capital First Trust Deed Fund, LLC For Allowance And Payment of Fees And Expenses For The Period From June 1, 2006 Through July 31, 2006 (Affects USA Capital First Trust Deed Fund, LLC);

4. First Interim Application of the Official Committee of Equity Security Holders of USA Capital First Trust Deed Fund, LLC For Reimbursement of Expenses of Committee Members For The Period From May 10, 2006 Through July 31, 2006 (Affects Debtor USA Capital First Trust Deed Fund, LLC);

5. Orrick, Herrington & Sutcliffe LLP's First Interim Fee Application (June 1, 2006 – July 31, 2006);

6. First Interim Fee Application of Gordon & Silver, Ltd., Seeking Compensation For Legal Services Rendered And Reimbursement of Expenses;

7. First Interim Fee Application of Beckley Singleton, Chtd. For The Period From June 9, 2006 Through July 31, 2006;

8. First Interim Application For Compensation and Reimbursement of Expenses For (I) Mesirow Financial Interim Management, LLC As Crisis Managers For The Debtors, And (II) Thomas J. Allison Of Mesirow Financial Interim Management, LLC As Chief restructuring Officer For The Debtors And The Employment of Certain Temporary Employees For The Period April 14, 2006 Through July 31, 2006;

1           9.       Lewis and Roca LLP's First Interim Application For Allowance of Compensation and  
2 Reimbursement of Expenses Incurred As Attorneys For Official Committee of Unsecured Creditors;

3           10.       First Application For Interim Allowance of Attorney's Fees And Reimbursement of  
4 Expenses of Schwartz & McPherson Law Firm; and

5           11.       First Application of Ray Quinney & Nebeker P.C. For Interim Compensation And  
6 Reimbursement Pursuant To 11 U.S.C. §§ 330 And 331 For The Period April 13, 2006 Through July  
7 31, 2006 (collectively the "Fee Applications.").

8           Milanowski and Hantges object to the Fee Applications on the basis that there is insufficient  
9 time to fully analyze the Fee Applications pursuant to the standards articulated by the Ninth Circuit in  
10 the case of In re Smith, 317 F.3d 918 (9<sup>th</sup> Cir. 2002.) Parties need more time to fully analyze if the  
11 time entries reflected in the Fee Applications are "unnecessarily duplicative" and if the services  
12 rendered were "reasonably likely to benefit the debtor's estate and were necessary for the  
13 administration of the case." Smith at 926. In order to facilitate the proper analysis, this Court should  
14 hold back some portion of the fees until final fee applications are approved.

15           Milanowski and Hantges also object to the Fee Applications because the Fee Applications do  
16 not state from which account the fees are going to be paid. To the extent that the Fee Applications are  
17 going to be paid from the USA Commercial Mortgage Company Collection Trust Account (hereinafter  
18 the "Collection Account."), then Milanowski and Hantges object on the basis that the funds in the  
19 Collection Account are not property of the bankruptcy estate pursuant to 11 U.S.C. §541. These funds  
20 are held in trust by the USA Commercial Mortgage Company for the benefit of the investors and  
21 should not be used to pay the administrative expenses set forth in the Fee Applications. Only the funds  
22 held in the debtor-in-possession general operating accounts should be used to pay the Fee  
23 Applications. The debtor in possession should not be allowed to use funds from the Collection  
24 Account other than the fees the debtor in possession is allowed to charge under the respective loan  
25 agreements or the loan servicing agreements.

26           This Objection is brought pursuant to Local Rule 9014(e) (1) and any oral argument of counsel  
27 to be presented at the time of the hearing on this Objection.  
28

1 DATED this 19<sup>th</sup> day of September, 2006

2  
3 **WOODBURY & KESLER, P.C.**

4 /s/ Russell S. Walker  
5 Russell S. Walker, Utah Bar No. 3363  
6 Elizabeth R. Loveridge, Utah Bar No. 6025  
7 Reid W. Lambert, Utah Bar No. 5744  
8 WOODBURY & KESLER, P.C.  
9 265 East 100 South, Suite 300  
10 P.O. Box 3358  
11 Salt Lake City, UT 84111

12 and

13 Joseph J. Huggins  
14 Nevada Bar No. 4456  
15 HUGGINS & ASSOCIATES  
16 1000 N. Green Valley Parkway, Suite 440-2  
17 Henderson Nevada 89014

18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
WOODBURY & KESLER, P.C.  
265 East 100 South, Suite 300  
Salt Lake City, UT 84111  
Tel: (801) 364-1100 Fax: (801) 359-2320